

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JUANA FLORES,

Plaintiff,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants.

Case No. 1:23-cv-01742-NODJ-CDB

ORDER DISCHARGING ORDER TO SHOW
CAUSE WHY THIS ACTION SHOULD NOT
BE DISMISSED FOR IMPROPER VENUE

(Doc. 6)

On December 20, 2023, Plaintiff Juana Flores (“Plaintiff”) initiated this action with the filing of a complaint alleging causes of action under the Federal Torts Claim Act for personal injuries against Defendants the United States of America, the United States Postal Service, Jonathan Daniel Douglas Elysee, and unnamed Doe Defendants (hereinafter collectively “Defendants”). (Doc. 1).

On December 27, 2023, the Court issued an order to show cause why this action should not be dismissed for improper venue. (Doc. 6). The Court found Plaintiff’s complaint plead inconsistent factual allegations concerning where the purported negligent acts occurred, and where all the Plaintiffs, Defendant, medical providers, and witnesses resided. *See generally id.*

On January 2, 2024, Plaintiff responded to the Court’s order by filing a first amended complaint. (Doc. 7). Plaintiff’s first amended complaint does not clarify where the purported negligent acts occurred. *Cf. id.* at ¶ 6 with ¶ 20. However, the amended complaint has clarified

1 that all the Plaintiffs, Defendant Jonathan Daniel Douglas Elysee, medical providers, and
2 witnesses reside within the Eastern District. *Id.* at ¶¶ 4-5.

3 A federal court may consider *sua sponte* the question of venue. *Costlow v. Weeks*, 790
4 F.2d 1486, 1488 (9th Cir. 1986). Venue lies in the judicial district where any defendant resides,
5 28 U.S.C. § 1391(b)(1), or “a substantial part of the events . . . giving rise to the claim occurred,”
6 28 U.S.C. § 1391(b)(2). According to the first amended complaint, Defendant Jonathan Daniel
7 Douglas Elysee is a resident of Kern California. (Doc. 7 at ¶ 10). Moreover, as the first amended
8 complaint alleges that the witnesses to the negligent acts reside within this judicial district, it
9 follows that venue is appropriate in the Eastern District of California.

10 Accordingly, for good cause shown, the Court’s December 27, 2023, order to show cause
11 is HEREBY DISCHARGED.

12 IT IS SO ORDERED.

13 Dated: January 17, 2024

14 
UNITED STATES MAGISTRATE JUDGE